

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

.....X

UNITED STATES OF AMERICA :

- against - :

PETER J. AJEMIAN, :

PETER J. LESNIEWSKI, :

MARIA RUSIN, :

MARIE BARAN, :

JOSEPH RUTIGLIANO, :

GREGORY NOONE, :

REGINA WALSH, :

SHARON FALLOON, :

STEVEN GAGLIANO, :

RICHARD EHRLINGER, :

BRIAN DELGIORNO :

PHILIP PULSONETTI :

GREGORY BIANCHINI :

FRANKLIN PLAIA :

MICHAEL STAVOLA :

MICHAEL DASARO :

KARL BRITTEL :

KEVIN NUGENT :

GARY SUPPER, and :

THOMAS DELALLA, :

Defendants. :

.....X

**DEFENDANT WALSH'S  
NOTICE OF OMNIBUS  
PRETRIAL MOTION**

S1 -11 Cr. 1091 (VM)

PLEASE TAKE NOTICE that upon the declaration of Paul B. Bergman, dated September 14, 2012, counsel for defendant REGINA WALSH, contemporaneously filed herewith, and upon the accompanying Memorandum of Law and Appendix in Support of Defendant Walsh's Pretrial Motions, the prior proceedings in this matter, and the memoranda of law and supporting declarations of other defense counsel submitted in connection with the defense pretrial motions, the defendant will move this Court, before the Hon. Victor Marrero, United States District Judge for the Southern District of New York, at

the United States Courthouse, 500 Pearl Street, Courtroom 20B, New York, New York, at a time and date to be set by the Court, for the following relief:

1. For an Order, pursuant to Rules 7(c)(1) and 12(b)(3), Fed. R. Crim. Pro., dismissing the Superseding Indictment, or in the alternative, an order pursuant to Rule 7(d), Fed. R. Crim. Pro., striking paragraphs 7 through 26, 31, 34, 36, 38 and 40 from the Superseding Indictment;

2. For an Order, pursuant to Rules 7(c)(1) and 12(b)(3)(B), Fed. R. Crim. Pro., and the 5th and 6th Amendments to the United States Constitution, dismissing Counts Three, Five and Nineteen of the Superseding Indictment for insufficiency;

3. For an Order, pursuant to Rule 7(f), Fed. R. Crim. Pro., directing the Government to provide a bill of particulars;

4. For an Order, pursuant to Rule 14(a), Fed. R. Crim. Pro., severing the defendant Walsh's trial pursuant to the Court's discretionary authority to sever defendants for trial purposes;

5. For an Order, pursuant to Rule 16, Fed. R. Crim. Pro., directing the government to provide discovery, including a witness list and 3500 material, sufficiently in advance of trial to enable counsel's trial preparation;

6. For an Order, pursuant to Rule 16(a)(1)(G), and Rules 702, 703 and 705, Fed. R. Evid., directing the government to provide the defense with a written summary of the testimony of any expert it intends to use in its case-in-chief;

7. For an Order directing the government to provide notice, sufficiently in advance of the trial, of its intention to offer evidence of "similar acts" or other evidence

pursuant to Rule 404(b), Fed. R. Evid., and if so, to set forth the date, place and describe the nature of each such “other crime” evidence;

8. For an order, pursuant to *Brady v. Maryland*, 373 U.S. 83 (1963) and *Giglio v. United States*, 405 U.S. 150 (1972) and their progeny, directing the government to provide all information in its possession tending to exculpate the defendant of the alleged criminal conduct, including such information as will tend to impeach the credibility of the government’s witnesses;

9. For an order, pursuant to the 5th and 6th Amendments to the United States Constitution, dismissing the Superseding Indictment on the ground that the defendant has been deprived of due process of law in preparing for and defending at trial the charges in the Superseding Indictment;

10. For an Order, pursuant to Rule 12(b)(4)(B) Fed. R. Crim. Pro., directing the government to identify all statements made by defendants in this action upon which the government intends to rely in its evidence-in-chief;

11. For an Order, pursuant to the jury clause of the 6th Amendment to the United States Constitution, Rule 12(b)(3) Fed. R. Crim. Pro., and 28 U.S.C. §1867(a), dismissing the Superseding Indictment on the ground that the Amended Jury Plan for the Southern District of New York improperly serves to exclude from the pool of grand jurors, persons who are 70 years of age or older and, further, in such exclusion violates the random selection requirement of 28 U.S.C. §1867(a);

12. For an Order, pursuant to Rule 1006 of the Federal Rules of Evidence, Rule 16 Fed. R. Crim. Pro, and the 5th and 6th Amendments to the United States

Constitution, directing the government to provide information with respect to the statistical allegations in the Superseding Indictment;

13. For an Order granting inspection of the Grand Jury minutes, or the *in camera* production of the Grand Jury minutes;

14. For an Order, pursuant to Rule 8(a), Fed R. Crim. P. dismissing Counts One and Two as duplicitous, or in the alternative to compel the government to elect which conspiracy it will attempt to prove at trial; and

For such other and further relief as the Court may deem just and proper, including leave, upon a proper showing, to make additional pre-trial motions pursuant to Rule 12(b)(3), Fed. R. Crim. Pro., and for leave to join in, as appropriate, such additional applications for pretrial relief as may be filed on behalf of the co-defendants in this prosecution.

Dated: New York, New York  
September 14, 2012

Yours, etc.

PAUL B. BERGMAN PC

By: /s/  
PAUL B. BERGMAN, ESQ.  
Attorney for Regina Walsh  
950 Third Avenue  
New York, NY 10022  
Tel. No.: (212) 355-7711  
Fax No.: (212) 755-5509  
Email: paul.bergman@paulbbergmanpc.com

TO: Hon. Victor Marrero  
United States District Judge  
Southern District of New York  
(Courtesy Copies by First Class U.S. Mail)

Justin S. Weddle, Esq.

E. Danya Perry, Esq

Daniel B. Tehrani, Esq.

Assistant United States Attorneys (By ECF)

All Defense Counsel of Record (By ECF)